

WSR 11-23-002

**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Filed November 3, 2011, 10:18 a.m.]

In compliance with the Open Public Meetings Act, the Shoreline Community College board of trustees, in open meeting, took action to change the original date of its December 2011 meeting from Wednesday, December 7, 2011, to Wednesday, December 14, 2011. There was no change to the meeting start time of 4:00 p.m.

Please call (206) 546-4552 or e-mail Lori Y. Yonemitsu at lyonemitsu@shoreline.edu if you need further information.

WSR 11-23-003

**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Filed November 3, 2011, 10:18 a.m.]

Pursuant to RCW 42.30.075, the Shoreline Community College board of trustees shall hold regular meetings at 4:00 p.m. in the Board Room (#1010M) in the Administration Building (#1000) at Shoreline Community College, 16101 Greenwood Avenue North, Shoreline, WA. The board is scheduled to meet on the following dates in calendar year 2012:

Winter Quarter	Spring Quarter	Fall Quarter
January 25, 2012	April 25, 2012	September 26, 2012
February 22, 2012	May 23, 2012	October 24, 2012
March 21, 2012 ¹	June 27, 2012	December 5, 2012 ²

¹Third Wednesday in March.

²The November and December 2012 meetings are combined with the meeting scheduled for the first Wednesday in December.

In the event of a change to a regular meeting date, notice of the change will be submitted to the office of the code reviser a minimum of twenty days prior to the rescheduled meeting date.

Please call (206) 546-4552 or e-mail Lori Y. Yonemitsu at lyonemitsu@shoreline.edu if you need further information.

WSR 11-23-004

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Filed November 3, 2011, 10:48 a.m.]

The **regularly scheduled** meeting of the board of trustees of Bellingham Technical College will be held on Thursday, November 17, 2011, from 9:00 - 12:00 p.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

WSR 11-23-006

**NOTICE OF PUBLIC MEETINGS
STATE BOARD OF HEALTH**

[Filed November 3, 2011, 1:13 p.m.]

**Proposed 2011 Board Meeting Schedule
Approved November 10, 2010**

Meeting Date	City	County	Location
January 12, 2011	Tumwater	Thurston/ King	Teleconference DOH Point Plaza East Building Room 152/153 310 Israel Road S.E. Tumwater, WA 98501
February 9, 2011			No meeting held
March 9, 2011			No meeting held
April 13, 2011	Tumwater	Thurston	Teleconference DOH Point Plaza East Building Room 152/153 310 Israel Road S.E. Tumwater, WA 98501
May 11, 2011			No meeting held
June 8, 2011	Olympia	Thurston	Cherberg Building SHR 3 Capitol Campus 416 Sid Snyder Avenue S.W. Olympia, WA 98504
July 13, 2011			No meeting held
August 10, 2011			No meeting held
September 14, 2011			No meeting held
October 12, 2011	Olympia	Thurston	Cherberg Building SHR 3 Capitol Campus 416 Sid Snyder Avenue S.W. Olympia, WA 98504
November 9, 2011			Canceled
December 14, 2011			Hold date - meet only if necessary

Locations subject to change as needed - See our web site at www.sboh.wa.gov for the most current information.

WSR 11-23-010

**NOTICE OF PUBLIC MEETINGS
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed November 4, 2011, 3:03 p.m.]

The following is the schedule for the 2012 regular public meetings of the Washington utilities and transportation commission:

- January 12, 2012
- January 26, 2012
- February 10, 2012
- February 23, 2012

March 8, 2012
 March 29, 2012
 April 12, 2012
 April 26, 2012
 May 10, 2012
 May 31, 2012
 June 14, 2012
 June 28, 2012
 July 12, 2012
 July 27, 2012
 August 9, 2012
 August 30, 2012
 September 13, 2012
 September 27, 2012
 October 11, 2012
 October 25, 2012
 November 8, 2012
 November 29, 2012
 December 13, 2012
 December 27, 2012

All commission meetings will commence at 9:30 a.m. on the scheduled day. The meetings will be held in the Commission's Main Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA.

Assistance with sign language interpreters or information in alternate formats will be provided when requested ten days prior to the meeting date, by contacting the ADA coordinator at (360) 664-1132 or TTY 800-416-5289.

WSR 11-23-015
INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY
 [Filed November 7, 2011, 2:18 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-51 Dental Services: Coverage and Authorization Changes.

Effective Date: October 1, 2011.

Description: The health care authority (the agency) is making the following changes to which clients are eligible for adult dental services:

- **Retroactive to dates of service on and after July 1, 2011**, the agency has increased the eligibility [eligibility] coverage groups; and
- **Effective for dates of service on and after October 1, 2011**, the agency will decrease the eligibility coverage groups.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-016
INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY
 [Filed November 7, 2011, 2:19 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-61 Synagis (2011-2012 Respiratory Syncytial Virus (RSV) Season): Administration and Authorization Requirements.

Effective Date: December 1, 2011.

Description: **Effective for dates of service on and after December 1, 2011**, the medicaid program of the health care authority (the agency) will:

- Establish the RSV/Synagis® Season as beginning December 1, 2011, through April 30, 2012.
- Require providers to follow the 2009 American Academy of Pediatrics (AAP) guidelines for the administration of Synagis®.
- Require the use of agency-approved forms when submitting requests for authorization of Synagis.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-018
INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY
 [Filed November 7, 2011, 3:33 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-52 Prescription Drug Program - Maximum Allowable Cost Update.

Effective Date: September 1, 2011.

Description: Effective for dates of service on and after September 1, 2011, (unless otherwise noted) the health care authority will implement the following changes to the prescription drug program:

1. New additions to the maximum allowable cost (MAC) list;
2. MAC adjustments; and
3. MAC deletions.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-019
INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY
 [Filed November 7, 2011, 3:34 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-60 Prescription Drug Program - Maximum Allowable Cost Update.

Effective Date: November 1, 2011.

Description: Effective for dates of service on and after November 1, 2011, the health care authority will implement that [the] following changes to the prescription drug program:

1. Adjustments to the maximum allowable cost (MAC) list; and
2. MAC deletions.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-020

**INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY**

[Filed November 7, 2011, 3:34 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-63 Hospice Services: Fee Schedule Updates.

Effective Date: October 1, 2011.

Description: **Retroactive for dates of service on and after October 1, 2011**, the medicaid program of the health care authority updated the hospice fee schedule.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-021

**INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY**

[Filed November 7, 2011, 3:36 p.m.]

Notice of Interpretive or Policy Statement

Title or Subject: 11-62 Kidney Center Services: Fee Schedule Updates.

Effective Date: October 1, 2011.

Description: **Retroactive for dates of service on and after October 1, 2011**, the medicaid program of the health care authority updated the kidney center services fee schedule.

For additional information, contact Amber Dassow, Health Care Authority, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site <http://www.hca.wa.gov/>.

WSR 11-23-022

**NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION**

[Filed November 7, 2011, 3:38 p.m.]

2011 PUBLIC MEETINGS NOTICE

Per WAC 135-04-020, the Washington state conservation commission shall hold regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington. The regular business conservation commission meetings are held on the third Thursday of every other month with the exception of the November/December meeting.

Please note that the dates are set and the times listed below are estimated and may vary. Every effort will be made, however, to adhere to the proposed timelines. Please check our web site for any changes or additions that may affect this schedule: www.scc.wa.gov.

If you are a person with a disability and need special accommodations, please contact the conservation commission at (360) 407-6200.

January 19, 2011 Special Meeting	10:30 - 4:30 p.m. Work Session 6-8 p.m. Interaction Dinner	Location Olympic National Forest Headquarters Building 1835 Black Lake Boulevard S.W. Olympia, WA 98512
January 20, 2011 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location Olympic National Forest Headquarters Building 1835 Black Lake Boulevard S.W. Olympia, WA 98512
March 16, 2011 Special Meeting	10:30 - 4:30 p.m. Work Session 6-8 p.m. Interaction Dinner	Location LOTT Clean Water Alliance 500 Adams Street N.E. Olympia, WA 98501
March 17, 2011 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location LOTT Clean Water Alliance 500 Adams Street N.E. Olympia, WA 98501
May 17, 2011 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by: (Stu Trefry) Pierce Conservation District 5430 66th Avenue East Puyallup, WA 98371
May 18, 2011 Planning Meeting	9:00 a.m. - 4:00 p.m. WSCC Planning Meeting	Location Pierce County Central Maintenance Facility 4812 196th Street East Spanaway, WA 98387
May 19, 2011 Regular Meeting	8:30 a.m. - 4:00 p.m. WSCC Business Meeting	Location Pierce County Central Maintenance Facility 4812 196th Street East Spanaway, WA 98387

July 20, 2011 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by: (Bill Eller) Cascadia Conservation District 215 Melody Lane Wenatchee, WA 98801
July 21, 2011 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location Cascadia Conservation District 215 Melody Lane Wenatchee, WA 98801
September 14, 2011 Special Meeting	1-5 p.m. Field Tour 6-8 p.m. Interaction Dinner	Coordinated by: (Larry Brewer) Walla Walla County Conservation District 325 North 13th Avenue Walla Walla, WA 99362
September 15, 2011 Regular Meeting	8:30 a.m. - 4:30 p.m. WSCC Business Meeting	Location Walla Walla Community College 500 Tausick Way Walla Walla, WA 99362
December 1, 2011 Regular Meeting	10:00 - 3:00 p.m. WSCC Business Meeting	Location Suncadia Resort 3600 Suncadia Trail Cle Elum, WA 98922

WSR 11-23-023
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Dental Quality Assurance Commission)
 [Filed November 7, 2011, 4:38 p.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, dental quality assurance commission, for the year 2012. The dental quality assurance commission meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the department of health web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the dental quality assurance commission reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 6, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
March 2, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501

Date	Time	Location
April 20, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
June 8, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
July 27, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
September 14, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
October 26, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501
December 14, 2012	8:00 a.m.	Department of Health 310 Israel Road S.E. Tumwater, WA 98501

If you need further information, please contact Jennifer Santiago, Health Service Consultant 3, Washington Department of Health, Dental Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4893, fax (360) 236-2901, e-mail Jennifer.santiago@doh.wa.gov, web www.doh.wa.gov.

Please be advised the dental quality assurance commission is required to comply with the Public Disclosure Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

WSR 11-23-024
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF ECOLOGY
 [Filed November 8, 2011, 8:42 a.m.]

The Washington state department of ecology, toxics cleanup program (TCP) has recently updated the following guidance documents. To obtain a copy of these and other TCP guidance documents, go to http://www.ecy.wa.gov/programs/tcp/policies/pol_main.html or contact Ann McNeely at the department of ecology at (360) 407-7205 or ann.mcneely@ecy.wa.gov.

Policy or Procedure	Title	Description
10-09-057	Guidance for Remediation of Petroleum Contaminated Sites.	Addresses all types of petroleum contaminated sites and media. Reflects changes in regulations. Provides information on release reporting, site

Policy or Procedure	Title	Description
		characterization, establishing cleanup levels, and measuring compliance with cleanup levels. Updates and replaces previous guidance.
91-30	Guidance for Remediation of Petroleum Contaminated Sites.	Obsolete. Replaced by Publication 10-09-057.
01-09-074	Developing Petroleum Hydrocarbon Levels.	Obsolete. Replaced by Publication 10-09-057.
Policy 310B	Creating or Changing the Name, Address, or Identification Number for a Facility or Site.	Minor update to guidance for entering data into ecology's <i>Integrated Site Information System</i> .

WSR 11-23-025
NOTICE OF PUBLIC MEETINGS
BOARD OF ACCOUNTANCY
 [Filed November 8, 2011, 9:19 a.m.]

2012 BOARD MEETING SCHEDULE

As required by RCW 42.30.075 following is the schedule of regular meetings the board plans to hold during 2012:

Date	Day	Meeting	Location
January 26	Thursday	Regular	SeaTac, Washington area
April 26	Thursday	Regular	SeaTac, Washington area
July 26	Thursday	Regular	SeaTac, Washington area
October 25	Thursday	Annual	SeaTac, Washington area

The exact location of each meeting has not been determined. For persons who wish to attend, please visit the board's web site at www.cpaboard.wa.gov or contact Cheryl Sexton at the board office, (360) 664-9194 or fax (360) 664-9190 for the meeting location. Meetings usually begin at 9:00 a.m. The board of accountancy schedules all public meetings at barrier free sites. Persons who need special assistance, such as enlarged type materials, please contact Cheryl Sexton at the board office, TDD 800-833-6384, voice (360) 664-9194, or fax (360) 664-9190.

WSR 11-23-026
NOTICE OF PUBLIC MEETINGS
CONVENTION CENTER
 [Filed November 8, 2011, 10:01 a.m.]

A regular meeting of the Washington state convention center public facilities district board of directors will be held on Tuesday, November 15, 2011, at 2:00 p.m. The meeting will take place in the Administrative Boardroom, Level 5, of the Convention Center, 800 Pike Street, Seattle.

If you have any questions regarding the board meeting, please call (206) 694-5000.

WSR 11-23-027
RULES OF COURT
STATE SUPREME COURT
 [November 3, 2011]

IN THE MATTER OF THE ADOPTION) ORDER
 OF THE AMENDMENTS TO GR 26-) NO. 25700-A-984
 MANDATORY CONTINUING JUDICIAL)
 LEGAL EDUCATION STANDARDS 2)
 AND 3)

The Board for Court Education having recommended the adoption of the proposed amendments to GR 26-Mandatory Continuing Judicial Legal Education Standards 2 and 3, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby
 ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, the Washington State Bar Association and Administrative Office of the Court's websites in January 2012.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2012. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of November, 2011.

For the Court

Madsen, C.J.
 CHIEF JUSTICE

GENERAL RULES (GR)
RULE 26. Mandatory Continuing Judicial Education

Purpose: The purpose of the suggested amendments to Section 2 (General Standards for Continuing Judicial Education) and Section 3 (Program Accreditation) of GR 26 are to:

(1) Compile the standards for earning Continuing Judicial Education (CJE) Credits into one subsection.

(2) Clarify that each judicial officer must earn a minimum of thirty (30) credit hours (of which four (4) must be ethics credit hours), during the three-year reporting cycle, via attending CJE programs.

(3) Expand the definition of "attending" to include participating in CJE programs via the Internet as a method of obtaining a portion of (but not all) the mandatory credit hours.

(4) Expand and clarify the definition of "Self-Study" CJE Credits to allow the earning of up to fifteen (15) credit hours (including two (2) ethics credit hours) during the three-year reporting cycle via listening to, or watching, pre-recorded CJE programs.

(5) Clarify the definition of "Teaching" CJE Credits to allow the earning of up to fifteen (15) credit hours (including two (2) ethics credit hours) during the three-year reporting cycle via teaching accredited courses or publishing legal writing.

I. Introduction

The General Rule (GR) 26 Preamble states, "The protection of the rights of free citizens depends upon the existence of an independent and competent judiciary. The challenges of maintaining judicial competence requires ongoing education of judges in the application of legal principles and the art of judging in order to meet the needs of a changing society. This rule establishes the minimum requirements for continuing judicial education of judicial officers."

Judicial officers must complete a minimum of forty-five (45) credit hours (of which six (6) must be ethics credit hours) of BCE-approved continuing judicial education every three years.

The proposed changes to the General Standards address the increasing availability of distance learning programs.

II. Distance Learning Opportunities

Over the past year the Mandatory Continuing Judicial Education Committee (MCJEC) has seen an increase in judicial officers' attendance of distance learning opportunities due to diminishing court travel budgets and the increased access, on a state and national level, to quality distance learning offerings.

When the GR 26 General Standards were composed, distance learning opportunities were few and not considered relevant to the education of the judiciary.

Proposed Changes to CJE Standards Sections 2 & 3

Section 2: General Standards for Continuing Judicial Education

1. Credit for Continuing Judicial Education (CJE)

During his or her three-year reporting cycle, each judicial officer must complete forty-five (45) hours of CJE credits, six (6) of which are in the area of judicial ethics. The CJE This requirement may be met either by attending approved courses or completing other continuing judicial or legal education activity approved for credit by the MCJEC, as described below.

a) ~~The CJE requirement may be met by attending approved courses. At least thirty (30) hours, of which at least~~

four (4) hours are in the area of judicial ethics, must be completed by attending accredited courses. "Attending" is defined as (1) presenting for, or being present in the audience at, an accredited CJE course when and where the course is being presented; (2) presenting for, or participating through an electronic medium in, an accredited CJE course at the time the course is being presented; or (3) participating through an electronic medium in an accredited CJE course that has been pre-recorded, but for which faculty are available to answer questions while the course is being presented. ((Self-study (including the use of technology-based programs), teaching and writing for judicial/legal publications may be considered for credit when they meet the conditions set forth in this rule.

b) ~~Forty-five hours are required for the three-year reporting period, six credits of which are in the area of judicial ethics. Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics, may be completed through self-study by listening to, or watching, pre-recorded accredited CJE courses. Judicial officers completing credits by self-study must report them to the Administrative Office of the Courts Court Education Services unit.~~

c) ~~No more than five hours and one hour in the area of ethics can be completed through self-study (including technology-based programs), teaching, or published judicial/legal writing. The National Judicial College Web-based programming is exempt from this limitation)). Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics, may be completed through teaching at accredited CJE courses and/or publishing legal writing. A judicial officer may complete up to three (3) hours of teaching credits for each hour of presentation. Credits for published legal writing must be approved by the MCJEC. Judicial officers completing credits by teaching or writing must report them to the Administrative Office of the Courts Court Education Services unit.~~

d) Up to three hours may be completed by visits to correctional and similar institutions. Judicial officers completing credits by institutional visits must report them to the Administrative Office of the Courts Court Education Services unit.

e) Judicial officers may attend a combination of approved local, state, or national programs.

f) A judicial officer may complete credits through other courses that directly aid the judicial officer in performing his or her specific judicial duties and are approved by the MCJEC.

2. Carry-Over

If a judicial officer completes more than 45 such credit hours in a three-year reporting period, up to 15 hours of excess credits may be carried forward and applied to the judicial officer's education requirement for the following three-year reporting period. The 15 credit hours that may be carried forward may include two credit hours toward the ethics requirement.

3. Judicial College Attendance

Each judicial officer shall attend and complete the Washington Judicial College program within 12 months of initial appointment or election to the judicial office.

~~((a) A judicial officer subject to the rules as noted above, who has been elected or appointed to their judicial office~~

since July 1, 1998, but has not attended the Washington Judicial College, must attend the 2003 college. A judicial officer who is unable to attend due to medical disability or extreme hardship may apply to BCE for permission to attend the 2004 college.)

4. Credit Calculation

Credit is calculated on the basis of 1 credit for each 60 minutes of actual subject presentation/participation, not including introductions, overviews, closing remarks, presentation during meals, or keynote addresses unless clearly identified in the agenda as a substantive legal presentation.

Section 3: Program Accreditation

1. Washington State Judicial Branch Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

- a) Washington State Supreme Court
- b) Administrative Office of the Courts
- c) Judicial education programs of the Board for Court Education (BCE)
- d) Court of Appeals (COA)
- e) Superior Court Judges' Association (SCJA)
- f) District and Municipal Court Judges Association (DMCJA)
- g) Minority and Justice Commission
- h) Commission on Gender and Justice

2. Other Judicial Education Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

- a) The National Judicial College in Reno, including the University of Nevada Masters and Ph.D. in Judicial Studies and Web-based programs.
- b) American Academy of Judicial Education
- c) New York University's Appellate Judges Seminar
- d) University of Virginia's Master of Laws in the Judicial Process (LLM)
- e) The National Center for State Courts (NCSC) programs such as those sponsored by the American Judges Association, the Institute for Court Management, National Council of Probate Judges, and the National Association of Women Judges
- f) Programs approved for Tuition Assistance by BCE
- g) The Judicial Division of the American Bar Association (ABA)
- h) The Judicial Divisions of all National Bar Associations
 1. National Asian Pacific Bar Association
 2. National Bar Association
 3. Hispanic National Bar Association.

3. Other Continuing Professional Education Programs

To receive credit for attending or serving as faculty at a program sponsored by an organization other than those listed above, a judicial officer may file with the Administrative Office of the Courts Judicial Education Unit an agenda of the program, which will be submitted to the MCJEC for possible accreditation. Courses approved by the Washington State Bar Association for continuing legal education credits that deal with substantive legal topics, statutory, constitutional, or

procedural issues that come before the judicial officer will usually qualify for CJE.

4. Basis for Accreditation of Courses

Courses will be approved based upon their content. An approved course shall have significant intellectual or practical content relating to the duties of the judicial officer.

Definitions. The course shall constitute an organized program of learning dealing with matters directly relating to the judicial officer's duties, including but not limited to substantive legal topics, statutory, constitutional and procedural issues that come before

a) the judicial officer, judicial ethics or professionalism, anti-bias and diversity training, and substance abuse prevention training.

b) **Factors in Evaluating.** Factors which should be considered in evaluating a course include:

- 1) The topic, depth, and skill level of the material.
- 2) The level of practical and/or academic experience or expertise of the presenters or faculty.
- 3) The intended audience.
- 4) The quality of the written, electronic, or presentation materials, which should be of high quality, readable, carefully prepared and distributed to all attendees at or before the course is presented.

5. Basis for Approval of Other Educational Activities

~~((The following activities will be judged on a case-by-case basis and shall make up no more than five (5) credits per year, one (1) of which may be in the area of judicial ethics.))~~

~~a) **Teaching.** Serving as faculty at any of the aforementioned accredited programs may be used to partially fulfill education requirements. Three credit hours will be allocated for each hour of instruction. The three credit hours per each hour of instruction includes preparation time.~~

~~b) **Published Judicial/Legal Writing.** Credit may be earned through published legal writing with approval by the MCJEC.~~

~~c) **Self Study.** Judicial officers may apply to the MCJEC to receive credit for self study. ((For example, judicial officers may receive credit by accessing educational activities through technology— audiotape and videotape, CD-Rom, Web-based programs, etc.)) To claim CJE credits earned through self study, judicial officers must report independently.~~

~~((The following will also qualify for CJE credit:))~~

~~((a))d) **Institutional Visits.** Up to a maximum of three credits per three year reporting period.~~

~~((b))e) **Other Continuing Professional Education Programs.** Other program courses that directly aid the judicial officer in performing his or her specific judicial duties.~~

~~((6)) **Programs That Do Not Qualify**~~

The following activities will not qualify for CJE credit:

a) Continuing Professional Education courses that do **not** relate to substantive legal topics, statutory, constitutional or procedural issues that come before the judicial officer when performing his or her specific judicial duties.

b) Teaching a legal subject to non-lawyers in an activity or course that would not qualify those attending for CJE/CLE credit.

c) Jury duty.

d) Judging or participating in law school or mock trial competitions.

e) Serving on professional (judicial or legal) committees/associations.

((7-)) 6. Appeals

A judicial officer may appeal the denial of program accreditation by the MCJEC to the full BCE. The appeal may be in the form of a letter addressed to the Chair of BCE that outlines the basis for the judicial officer's request. BCE shall notify the judicial officer in writing of its decision to sustain or overrule the decision of the Mandatory Continuing Judicial Education Committee.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 11-23-028

ATTORNEY GENERAL'S OFFICE

[Filed November 8, 2011, 10:04 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL**

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by December 14, 2011. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by calling (360) 586-0728, or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeffrey T. Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested; information about the attorney general's opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

If you are interested in receiving notice of new formal opinion requests via e-mail, you may visit the attorney general's web site at www.atg.wa.gov/AGOOpinions/default.aspx for more information on how to join our opinions list-serv.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 11-10-04

Request by Mike Carrell, Senator, District 28

QUESTION: When a city and county agree for the county to assume responsibility for sewer services within the city, may the residents of the city be charged a surcharge payable to the city?

WSR 11-23-029

ATTORNEY GENERAL'S OFFICE

[Filed November 8, 2011, 10:05 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL**

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by December 14, 2011. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by calling (360) 586-0728, or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeffrey T. Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested; information about the attorney general's opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

If you are interested in receiving notice of new formal opinion requests via e-mail, you may visit the attorney general's web site at www.atg.wa.gov/AGOOpinions/default.aspx for more information on how to join our opinions list-serv.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 11-11-01

Request by Deborah Eddy, Representative, District 48

QUESTION: Does SHB 1728 apply to the presence of service animals in grocery stores and food establishments in the City of Seattle, effectively preempting local ordinances which may require, by definition, the accommodation of other types of animals in these food-service business?

WSR 11-23-030

ATTORNEY GENERAL'S OFFICE

[Filed November 8, 2011, 10:06 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION WASHINGTON ATTORNEY GENERAL

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by December 14, 2011. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by calling (360) 586-0728, or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeffrey T. Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested; information about the attorney general's opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

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The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 11-10-03

Request by Dan Uphegrove, Representative, District 33

QUESTION: Does RCW 70.62.250 authorize the Department of Health to enter and inspect rooms or suites in transient accommodations when the rooms or suites are occupied by a patron or guest? (same question as 07-14-11 informal to same requester)

WSR 11-23-031

RULES OF COURT

STATE SUPREME COURT

[November 3, 2011]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO RPC 3.8-) NO. 25700-A-985
SPECIAL RESPONSIBILITIES OF A)
PROSECUTOR)

The Washington State Bar Association having recommended the adoption of the proposed amendments to RPC

3.8-Special Responsibilities of a Prosecutor, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 3rd day of November, 2011.

Madsen, C.J.

C. Johnson, J.

Fairhurst, J.

Alexander, J.

Chambers, J.

Wiggins, J.

RULES OF PROFESSIONAL CONDUCT (RPC)

RULE 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case shall:

(a) - (f) [Unchanged.]

(g) when a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted defendant is innocent of the offense of which the defendant was convicted, the prosecutor shall:

(1) promptly disclose that evidence to an appropriate court or authority, and

(2) if the conviction was obtained in the prosecutor's jurisdiction,

(A) promptly disclose that evidence to the defendant unless a court authorizes delay, and

(B) make reasonable efforts to inquire into the matter, or make reasonable efforts to cause the appropriate law enforcement agency to undertake an investigation into the matter.

(g) (h) [Reserved.]

(i) A prosecutor's independent judgment, made in good faith, that the evidence is not of such nature as to trigger the obligations of paragraph (g) of this Rule, though subsequently determined to have been erroneous, does not constitute a violation of this Rule.

Comment

[1] [Washington revision.] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction The extent of mandated remedial action is a matter of debate and varies in different jurisdictions. Many jurisdictions have adopted the ABA Standards of Criminal Justice Relating to the Prosecution Function, which in turn are the product of prolonged and careful deliberation by law-

yers experienced in both criminal prosecution and defense. Competent representation of the government may require a prosecutor to undertake some procedural and remedial measures as a matter of obligation. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.4.

[2] - [6] [Unchanged.]

Additional Washington Comments (7 - 9)

[7] [Washington revision.] When a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a person outside the prosecutor's jurisdiction was convicted of a crime that the person is innocent of committing, paragraph (g) requires prompt disclosure to the court or other appropriate authority, such as the chief prosecutor of the jurisdiction where the conviction occurred. If the conviction was obtained in the prosecutor's jurisdiction, paragraph (g) requires the prosecutor to make reasonable efforts to inquire into the matter to determine whether the defendant is in fact innocent, or make reasonable efforts to cause the appropriate law enforcement agency to undertake an investigation into the matter.

[8] [Reserved.]

[9] [Reserved. Comment [9] to Model Rule 3.8 is codified, with minor revisions, as paragraph (i).]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 11-23-032
RULES OF COURT
STATE SUPREME COURT
[November 3, 2011]

IN THE MATTER OF THE ADOPTION OF) ORDER
NEW GR 12.4-WASHINGTON STATE BAR) NO. 25700-A-986
ASSOCIATION ACCESS TO RECORDS)

The Washington State Bar Association having recommended the adoption of the proposed New GR 12.4-Washington State Bar Association Access to Records, and the Court having approved the proposed new rule for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed new rule as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January, 2012.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2012. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington

98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of November, 2011.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested New Rule
GENERAL RULES (GR)

Rule 12.4 - Washington State Bar Association Access to Records

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The Washington State Public Records Act ("PRA") (Chapter 42.56 RCW) does not apply to judicial records. *See City of Federal Way v. Koenig*, 167 Wn.2d 341, 217 P.3d 1172 (2009). In addition, the Washington State Bar Association is not a state agency but rather is an extension or arm of the judiciary. General Rule 31, which addresses public access to "court records," does not apply to the WSBA or the WSBA's records; it applies only to court case files and related documents about judicial proceedings.

The WSBA believes that public access to its records is most properly addressed by court rule. The Board for Judicial Administration (BJA) has drafted a new proposed GR 31A, which covers public access to the judiciary's administrative documents; however, because the WSBA performs regulatory, licensing, and disciplinary functions which are inextricably intertwined, the WSBA is unique and would not easily fit within the parameters of rules intended to apply to entities performing judicial functions. The WSBA therefore coordinated with the BJA to draft its own proposed rule.

The proposed rule defines "bar records" and takes into account the confidentiality requirements imposed by the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules, and other court rules and statutes. The proposed rule also includes specific exemptions (many of which are included in the WSBA's current bylaws), as well as provisions for redaction and provision of statistical information. Finally, the rule also provides that denials may be reviewed by the Chief Justice of the Washington Supreme Court.

SUGGESTED NEW RULE
GENERAL RULES (GR)

Rule 12.4 - Washington State Bar Association Access to Records

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. Access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court

orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.2 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the WSBA and its staff or stored under Bar ownership and control in facilities or servers and do not include records solely in the possession of members of boards, committees, task forces, commissions, sections, councils, and divisions. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital or other format.

(d) Bar Records - Right of Access.

1. The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule or any other state or federal statute or rule, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes or orders, the Bar shall delete identifying details in a manner consistent with those rules when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

2. In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may be specifically made public by court rule:

a. Personal information in files maintained for employees, appointees, members, volunteers, or elected officials of the Bar to the extent that disclosure would violate their right to privacy.

b. Specific information and investigative records, relating to lawyer or Limited Practice Officer admissions or discipline that are not expressly categorized as public information by court rule.

c. Test questions, scoring keys, and other examination data including individual scores, used by the Bar to administer a license, employment, or academic examination.

d. The contents of real estate appraisals made by or for the Bar relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

e. Research data, protected intellectual property and proprietary information.

f. Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

g. Preliminary or intra-Bar memoranda, notes, and e-mails, and other documents in which recommendations or opinions are expressed or policies formulated or recommended, except when referenced during an open meeting or cited by the Bar in connection with any of its actions.

h. Information regarding internal policies, guidelines, procedures, or techniques, the disclosure of which is reasonably likely to compromise the conduct of disciplinary or regulatory functions, investigations, examinations, or litigation.

i. Applications for employment with the Bar, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

j. Information that identifies a person who, while a Bar employee:

1) seeks advice, under an informal process established by the Bar, in order to ascertain his or her rights in connection with a potentially discriminatory or unfair employment practice; and

2) requests his or her identity or any identifying information not be disclosed.

k. Personal identifying information held in Bar records, including individuals' home contact information unless such information is their address of record, Social Security numbers, driver's license numbers, dates of birth, and identification or security photographs held in Bar records.

l. Personal data of individual members, including but not limited to ethnicity, race, disability status, gender, and sexual orientation; however membership class and status, bar number, dates of admission, addresses of record, and business telephones, facsimile numbers, and electronic mail addresses (unless the member has requested that electronic mail addresses not be made public), shall not be exempt, provided that, for reasons of personal security or other compelling reason, the Executive Director may, on an annual basis, approve the confidentiality of any such information in which case it shall be exempt.

m. Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, access codes, Personal Identification Numbers (PINs), or bank or other financial account numbers.

n. Mailing lists, except that member lists may be released for non-commercial purposes or to CLE or other vendors providing legal-related services.

o. Applications for admission to the Bar and annual licensing forms and related records.

p. Information which would identify bar examiners responsible for writing and/or grading specific bar exam questions.

q. Proceedings and records of the Board of Bar Examiners.

r. Information, records, or documents of the Law Clerk Board that relate to any application for admission to the Law Clerk program, or to the retention of any current participant in the Law Clerk program.

s. Information, records, or documents of the Practice of Law Board regarding the investigation, or potential investigation, of any incident or alleged incident of the unauthorized practice of law, except material submitted to other agencies after a finding of unauthorized practice of law.

t. Information, records, or documents of the Character and Fitness Board that relate to any application for admission, special admission, special licensing, or change of membership status or class, except where those proceedings are specifically made public by court rule.

u. Records relating to requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

v. Proceedings and records of the Judicial Recommendation Committee.

w. Records and proceedings of any Fee Arbitration Program, Mediation Program, or other alternative dispute resolution program which may be administered by the Bar.

x. Records and proceedings of the Personnel Committee.

y. Records and proceedings of the Awards Committee.

z. Records and proceedings of the Hearing Officer Selection Panel;

aa. Personnel records of Bar employees, whether regular, temporary, or contract, except for information relating to compensation for job classifications, verifying periods of employment or, when specifically requested, the Executive Director's current annual compensation;

bb. Applications for license fee hardship waivers and any decision or determination on them;

cc. Continuing Legal Education attendance rosters;

dd. Copyrighted material;

ee. Any material which is subject to attorney/client privilege.

ff. Records that are relevant to a controversy to which the WSBA is a party but which would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

The above exempted information will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed. The WSBA may, but is under no obligation to, give notice of any records request to any member or third party whose records would be included in the WSBA's response.

(e) Bar Records—Procedures for Access. The Bar Executive Director serves as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the WSBA Executive Director, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and set forth its procedures and fee

schedules for accepting and responding to records requests by the effective date of this rule.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on the time, resources, and personnel, the Bar shall communicate this information to the requester. The Bar must attempt to reach agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial.

(h) Review of denials. The exclusive remedy for denial of a record request by the Executive Director is review by the Chief Justice of the Washington Supreme Court. Requests for review of denials must be in writing and delivered to the Executive Director within 14 days of the date of the Executive Director's decision. The Executive Director shall forward timely requests for review to the Chief Justice of the Washington Supreme Court within 14 days of receipt.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 11-23-033

RULES OF COURT

STATE SUPREME COURT

[November 3, 2011]

IN THE MATTER OF THE ADOPTION OF) ORDER
THE AMENDMENTS TO RPC 1.15A-SAFE-) NO. 25700-A-987
GUARDING PROPERTY-NEW COMMENT)
21)

The Washington State Bar Association having recommended the adoption of the proposed amendments to RPC 1.15A-Safeguarding Property-New Comment 21, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2012.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2012. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of November, 2011.

For the Court

Madsen, C.J.
CHIEF JUSTICE

Suggested Amendment
RULES OF PROFESSIONAL CONDUCT (RPC)
RPC 1.15A - Safeguarding Property

(Clarifying procedures for maintenance of client trust accounts when the lawyer receives electronic funds transfers)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: RPC 1.15A presently outlines the applicable procedures for maintenance of lawyer trust accounts. In the course of performing random audits on lawyer trust accounts, the WSBA Auditors sometimes encounter an issue for which there does not appear to be clear guidance under RPC 1.15A. The situation arises when lawyers invoice clients for services rendered and arrange to receive electronic payments directly from clients. The lawyers provide the routing numbers for the operating account in anticipation of being paid the amount owed for services rendered. In these situations, some clients overpay the invoice, resulting in client funds being deposited into the operating account.

RPC 1.15A (h)(1)(ii) states that funds belonging in part to a client or third person and in part presently or potentially to the lawyer must be deposited and retained in a trust account, but any portion belonging to the lawyer must be withdrawn at the earliest reasonable time. In other words, when a client overpays an invoice, the lawyer must deposit the whole amount into the trust account, and then remove the portion that is earned once the deposit has cleared.

In the situation described herein, the lawyer does not know that an overpayment is coming until it is already deposited into the operating account, resulting in a situation that could be characterized as not in compliance with RPC 1.15A.

In the experience of WSBA auditors, such clients are typically large corporations with numerous departments involved in the processing of accounts payable. Generally speaking, when these situations have been detected in random audits, the lawyers have taken reasonable steps to ensure the client only pays the amount invoiced. Nevertheless, regardless of the lawyers efforts, many are in technical violation of RPC 1.15A (h)(1) and (h)(1)(ii).

The suggested Comment [21] to RPC 1.15A would provide guidance to the membership when presented with this specific scenario while still requiring strict adherence to RPC 1.15A. A comment would have the advantage of a narrative format without further complicating the rule structure of RPC 1.15A, or creating a more general exception to the RPC 1.15A requirements. However, a safe harbor in those limited instances where the client initiates the electronic funds transaction and overpays would be appropriate where, through no fault of the lawyer, an overpayment has been made.

While it is not typical that a client would unilaterally and erroneously place funds belonging to the lawyer into a trust account by electronic deposit, with the increasing prevalence of electronic banking transactions there are scenarios in which this could occur. The suggested comment is designed to address this situation as well.

Washington Comments

Comments [1] - [20] are unchanged.

[21] A unilateral deposit of funds belonging in part to a client or third party into a lawyer's non-trust account does not constitute a violation of paragraph (c) of this Rule if the lawyer promptly identifies the portion of the funds belonging to the client or third party, deposits those funds into a trust account, and notifies the client or third party of the deposit. A unilateral deposit of funds belonging in part to a lawyer into a trust account does not constitute a violation of paragraph (h) of this Rule if the lawyer promptly identifies the lawyer-owned funds and withdraws them from the trust account. For purposes of this provision, a unilateral deposit refers to funds deposited directly by a client or third party by means of electronic funds transfer where the lawyer has not directed, invited, or encouraged a deposit that would constitute a violation of this Rule and has taken reasonable precautions to prevent such a deposit.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 11-23-034
RULES OF COURT
STATE SUPREME COURT
[November 3, 2011]

IN THE MATTER OF THE ADOPTION OF) ORDER
THE AMENDMENTS TO APR 15-LAW-) NO. 25700-A-988
YERS' FUND FOR CLIENT PROTECTION-)
PROCEDURAL RULES 5 (ELIGIBLE)
CLAIMS) AND 11 (RESTITUTION AND)
SUBROGATION))

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 15-Lawyers' Fund for Client Protection-Procedural Rules 5 (Eligible Claims) and 11 (Restitution and Subrogation), and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2012.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2012. Comments may be sent to the fol-

lowing addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of November, 2011.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment
ADMISSION TO PRACTICE RULES (APR)
Rule 15 - Lawyers' Fund for Client Protection

Fund Procedural Rules 5 (Eligible Claims)
and 11 (Restitution and Subrogation)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The WSBA Board of Governors approved three rule amendments suggested by the WSBA Lawyers' Fund for Client Protection Board. The first amendment, to Fund Procedural Rule 5(F), addresses unjust enrichment. It says that "no rule should be interpreted to provide a financial windfall to a claimant from the Fund." The purpose is to address the situation where a lawyer settles a client's case and would be entitled to a 1/3 contingent fee, but the lawyer misappropriates the entire settlement. The client's true loss is not the entire settlement but only that portion to which the client would have received if the funds had not been appropriated.

The second amendment adds a new section, Fund Procedural Rule 5(G), addressing factors that the Board has been using when considering gifts to claimants who made investments with their lawyer. It says that "the Board should consider such factors as the sophistication of the investor, the length of the relationship with the lawyer, and whether the investor was aware that the lawyer had non-lawyer partners."

The third amendment is to Fund Procedural Rule 11(B). The purpose is to address the situation when a claimant who has been approved for payment cannot be found. We are currently carrying seven payments on the books that go back as far as 2002. We have made diligent efforts to locate these persons, without success. The amendment reads "Failure to return a signed subrogation agreement to the Fund within three years of approval of the application will result in revocation of that approval."

SUGGESTED AMENDMENT
LAWYERS' FUND FOR CLIENT PROTECTION
(APR 15) PROCEDURAL RULES
Rule 5 - Eligible Claims

A. Eligibility. To be eligible for payment from the Fund, the loss must be caused by the dishonest conduct of a lawyer or the failure to account for money or property entrusted to a lawyer as a result of or directly related to the lawyer's practice of law (as defined in GR 24). The loss must also have arisen out of and by reason of a client-lawyer rela-

tionship or a fiduciary relationship in a matter directly related to the lawyer's practice of law.

B. Time Limitations. Any application must be made within three years from the date on which discovery of the loss was made or reasonably should have been made by the applicant, and in no event more than three years from the date the lawyer dies, is disbarred, is disciplined for misappropriation of funds, or is criminally convicted for matters relating to the applicant's loss, provided that the Board or Trustees in their discretion may waive any limitations period for excusable neglect or other good cause.

C. Dishonest Conduct. As used in these rules, "dishonest conduct" or "dishonesty" means wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other thing of value, including but not limited to refusal to refund unearned fees or expenses as required by the Rules of Professional Conduct.

D. Excluded Losses. Except as provided by Section E of this Rule, the following losses shall not be reimbursable:

(1) Losses incurred by related persons, law partners and associate attorneys of the lawyer causing the loss. For purposes of these Rules, "related persons" includes a spouse, domestic partner, child, grandchild, parent, grandparent, sibling, or other Relative or individual with whom the lawyer maintains a close, familial relationship;

(2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety, or insurer is subrogated, to the extent of that subrogated interest;

(3) Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract;

(4) Losses incurred by any business entity controlled by the lawyer or any person or entity described in Rule 5 D (1), (2) or (3);

(5) Losses incurred by an assignee, lienholder, or creditor of the applicant or lawyer, unless application has been made by the client or beneficiary or the client or beneficiary has authorized such reimbursement;

(6) Losses incurred by any governmental entity or agency;

(7) Losses arising from business or personal investments not arising in the course of or arising out of the client-lawyer relationship;

(8) Consequential damages, such as lost interest, or attorney's fees or other costs incurred in seeking recovery of a loss.

E. Special and Unusual Circumstances. In cases of special and unusual circumstances, the Board may, in its discretion, consider an application which would otherwise be excluded by reason of the procedural requirements of these rules.

F. Unjust Enrichment. In cases where it appears that there will be unjust enrichment, or that the applicant contributed to the loss, the Board may, in its discretion, recommend the denial of the application. No rule should be interpreted as to provide a financial windfall to a claimant from the fund.

G. Investment Victims. When considering gifts to claimants who were victimized after investing with a lawyer,

the Board may consider such factors as the sophistication of the investor, the length of the relationship with the lawyer, and whether the investor was aware that the lawyer had non-lawyer partners.

G. H. Exhaustion of Remedies. The Board may consider whether an applicant has made reasonable attempts to seek reimbursement of a loss before taking action on an application. This may include, but is not limited to, the following:

- (1) Filing a claim with an appropriate insurance carrier;
- (2) Filing a claim on a bond, when appropriate;
- (3) Filing a claim with any and all banks which honored a financial instrument with a forged endorsement;
- (4) As a prelude to possible suit under part (5) below, demanding payment from any business associate or employer who may be liable for the actions of the dishonest lawyer; or
- (5) Commencing appropriate legal action against the lawyer or against any other party or entity who may be liable for the applicant's loss.

**SUGGESTED AMENDMENT
LAWYERS' FUND FOR CLIENT PROTECTION
(APR 15) PROCEDURAL RULES**

Rule 11 - Restitution and Subrogation

A. Restitution. A lawyer whose conduct results in payment to an applicant shall be liable to the Fund for restitution, and the Trustees may bring such action as they deem advisable to enforce restitution.

B. Subrogation. As a condition of payment, an applicant shall be required to provide the Fund with a pro tanto transfer of the applicant's rights against the lawyer, the lawyer's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the applicant's loss. Failure to return a signed subrogation agreement to the Fund within three years of approval of the application will result in revocation of that approval.

C. Action to Enforce Restitution. In the event the Trustees commence a judicial action to enforce restitution, they shall advise the applicant who may then join in the action to recover any unreimbursed losses. If the applicant commences such an action against the lawyer or another entity who may be liable for the loss, the applicant shall notify the fund who may join in the action.

D. Duty to Cooperate. As a condition of payment, the applicant shall be required to cooperate in all efforts that the Fund undertakes to achieve restitution.

**WSR 11-23-035
RULES OF COURT
STATE SUPREME COURT
[November 3, 2011]**

IN THE MATTER OF THE ADOPTION)	ORDER
OF THE AMENDMENTS TO CrR 4.2(g)-)	NO. 25700-A-989
STATEMENT OF DEFENDANT ON)	
PLEA OF GUILTY TO NON-SEX)	
OFFENSE; CrR 4.2(g)-STATEMENT OF)	
DEFENDANT ON PLEA OF GUILTY TO)	
SEX OFFENSE; CrR 4.2(g)-"OFFENDER)	
REGISTRATION" ATTACHMENT; JuCR)	
7.7-STATEMENT ON PLEA OF GUILTY;)	
JuCR 7.7-"OFFENDER REGISTRATION")	
ATTACHMENT; CrRLJ 4.2(g)-STATE-)	
MENT OF DEFENDANT ON PLEA OF)	
GUILTY; CrRLJ 4.2(g)-"OFFENDER)	
REGISTRATION" ATTACHMENT; CrRLJ)	
4.2(g)-"DUI" ATTACHMENT)	

The Pattern Forms Committee having recommended the adoption of the proposed amendments to CrR 4.2(g)-Statement of Defendant on Plea of Guilty to Non-Sex Offense; CrR 4.2(g)-Statement of Defendant on Plea of Guilty to Sex Offense; CrR 4.2(g)-"Offender Registration" Attachment; JuCR 7.7-Statement on Plea of Guilty; JuCR 7.7-"Offender Registration" Attachment; CrRLJ 4.2(g)-Statement of Defendant on Plea of Guilty; CrRLJ 4.2(g)-"Offender Registration" Attachment; CrRLJ 4.2(g)-"DUI" Attachment, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as shown below are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 3rd Day of November, 2011.

Madsen, C.J.

C. Johnson, J.

Fairhurst, J.

Alexander, J.

J. M. Johnson, J.

Chambers, J.

Stephens, J.

Owens, J.

Wiggins, J.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-24 issue of the Register.

WSR 11-23-036
RULES OF COURT
STATE SUPREME COURT
[November 4, 2011]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO ER 501-) NO. 25700-A-992
GENERAL RULE)

The Washington State Bar Association having recom-
mended the adoption of the proposed amendments to ER
501-General Rule, and the Court having approved the pro-
posed amendments for publication;

Now, therefore, it is hereby
ORDERED:

(a) That pursuant to the provisions of GR 9(g), the pro-
posed amendments as shown below are to be published for
comment in the Washington Reports, Washington Register,
Washington State Bar Association and Administrative Office
of the Court's websites in January 2012.

(b) The purpose statement as required by GR 9(e), is
published solely for the information of the Bench, Bar and
other interested parties.

(c) Comments are to be submitted to the Clerk of the
Supreme Court by either U.S. Mail or Internet E-Mail by no
later than April 30, 2012. Comments may be sent to the fol-
lowing addresses: P.O. Box 40929, Olympia, Washington
98504-0929, or Camilla.Faulk@courts.wa.gov. Comments
submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 4th day of Novem-
ber, 2011.

For the Court

Madsen, C.J.
CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment
EVIDENCE RULES (ER)
Rule 501 - General Rule

Submitted by the Board of Governors of the
Washington State Bar Association

Purpose: ER 501 presently identifies certain statutes
and "case law" that make reference to privileges and commu-
nications. ER 501(h) identifies two significant cases that
apply to the journalist privilege, including Senear v. Daily
Journal American, 97 Wn.2d 148, 641 P.2d 1180 (1982) and
State v. Rinaldo, 102 Wn.2d 749, 689 P.2d 392 (1984). ER
501(h) is the only subpart of the rule that refers to case law,
and the other privileges identified in the rule include refer-
ences only to statutes.

The suggested amendment to ER 501 would strike refer-
ences to these two cases, and instead refer to the statute that
governs the journalist privilege: RCW 5.68.010. A concur-
rent proposal would eliminate a reference to "case law" at the
top of the rule, as there would no longer be a reference to case
law following each privileged in the rule. This suggested
amendment would not create any privilege nor abrogate any

privilege by implication or omission and is designed to con-
sistently refer to the relevant statutes.

ER 501(f) currently refers to the "Husband Wife" privi-
lege. Since its inception, the Revised Code of Washington
has been updated to refer to the "Spouse or Domestic Partner"
privilege. The suggested amendment would amend the refer-
ence to conform to the language contained in the applicable
statutory provisions. RCW 26.21.355(8) has also been
replaced by RCW 26.21A.275(8). Accordingly, the sug-
gested amendment would update and correct the cited statu-
tory references.

SUGGESTED AMENDMENT
EVIDENCE RULES (ER)
Rule 501 - General Rule

The following citations are to certain statutes and case
law that make reference to privileges or privileged communi-
cations. This list is not intended to create any privilege, nor
to abrogate any privilege by implication or omission.

- (a) Attorney-Client. (Reserved. See RCW 5.60.060
(2).)
(b) Clergyman or Priest. (Reserved. See RCW 5.60.-
060(3), 26.44.060, 70.124.060.)
(c) Dispute Resolution Center. (Reserved. See RCW
7.75.050.)
(d) Counselor. (Reserved. See RCW 18.19.180.)
(e) Higher Education Procedures. (Reserved. See
RCW 28B.19.120(4).)
(f) Husband Wife Spouse or Domestic Partner.
(Reserved. See RCW 5.60.060(1), 26.20.071, 26.21.355(8)
26.21A.275(8).)
(g) Interpreter in Legal Proceeding. (Reserved. See
RCW 2.42.160; GR 11.1(e).)
(h) Journalist. (Reserved. See Senear v. Daily Journal-
American, 97 Wn.2d 148, 641 P.2d 1180 (1982); State v.
Rinaldo, 102 Wn.2d 749, 689 P.2d 392 (1984) RCW 5.68.-
010.)
(i) Optometrist-Patient. (Reserved. See RCW 18.53.-
200, 26.44.060.)
(j) Physician-Patient. (Reserved. See RCW 5.60.060
(4), 26.26.120, 26.44.060, 51.04.050, 69.41.020, 69.50.403,
70.124.060, 71.05.250.)
(k) Psychologist-Client. (Reserved. See RCW 18.83.-
110, 26.44.060, 70.124.060.)
(l) Public Assistance Recipient. (Reserved. See RCW
74.04.060.)
(m) Public Officer. (Reserved. See RCW 5.60.060(5).)
(n) Registered Nurse. (Reserved. See RCW 5.62.010,
5.62.020, 5.62.030.)

WSR 11-23-037
RULES OF COURT
STATE SUPREME COURT
[November 4, 2011]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CrR 3.1-) NO. 25700-A-991
RIGHT TO AND ASSIGNMENT OF)
LAWYER)

The Superior Court Judges' Association having recommended the adoption of the proposed amendments to CrR 3.1-Right to and Assignment of Lawyer, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2012. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 4th day of November, 2011.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amended CrR 3.1 Right to and Assignment of Lawyer

(1) Name of Proponent: Superior Court Judges' Association

(2) Spokesperson: To be determined.

(3) Purpose: The proposed amendment is designed to balance the rights of the defendant against the rights of witnesses in criminal cases. Persons accused of crimes have a federal and state constitutional right to the assistance of counsel for their defense. The Supreme Court of the United States has held that defendants also have the right to waive representation by counsel and to represent themselves regardless of the crime charged. When a defendant waives the right to counsel, witnesses are then subject to questioning by the defendant.

The right to appear pro se exists to affirm the dignity and autonomy of the defendant and to allow the presentation of what may be the defendant's best possible defense. Courts have held that the right to self-representation is not infringed when the defendant has a fair chance to present his or her case in the defendant's own way and to make his or her voice heard. The right to self-representation is not an absolute right and courts have required the assistance of standby counsel in some situations. In addition, courts are entitled to control the mode of witness interrogation to more effectively ascertain the truth and to protect the witness from harassment or undue embarrassment to the extent the defendant's rights are not violated.

A defendant generally has the right under the Sixth Amendment to demand the physical presence at trial of accu-

satory witnesses. Courts have held that this right is also not absolute and that in some cases, the defendant's right to face-to-face confrontation may be outweighed where necessary to further an important public policy and only where the reliability of the testimony is otherwise assured. The Washington State Supreme Court has held that the state's interest in the physical and psychological well-being of child abuse victims may be sufficiently important to outweigh, at least in some cases, a defendant's right to face his or her accusers in court.

The amendment confirms the court's authority to control the courtroom, and in cases in which the court has determined in a hearing outside the presence of the jury that a defendant may not question a witness without restriction gives the court a non-exclusive list of means of moving the case forward in a manner that is fair to both the defendant and witnesses.

(4) Hearing: A hearing is recommended.

(5) Expedited Consideration: Expedited consideration is requested.

(g) Pro Se Defendants

(1) When a defendant has waived his or her right to counsel, the court, on a motion by the prosecuting attorney, on its own initiative, or at the request of a witness, and for good cause shown, may restrict the manner and means by which a defendant questions a witness.

(2) Good cause is shown when the court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that requiring the witness to be questioned by the defendant without restriction will cause that individual to suffer serious emotional or mental distress that will prevent the witness from reasonably communicating at the trial.

(3) The court shall state on the record the basis for good cause.

(4) When the court does not permit the pro se defendant to question a witness without restriction, the court may impose reasonable procedures including but not limited to:

(i) requiring questioning by the defendant of the witness using remote audio-visual means when authorized by law;

(ii) allowing stand-by counsel to question the witness with the agreement of the defendant.

Nothing herein precludes a court from using other means to control the courtroom including but not limited to prohibiting the defendant from approaching the witness during questioning and requiring the defendant to remain seated during questioning of the witness.

Reviser's note: The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 11-23-038
RULES OF COURT
STATE SUPREME COURT**

[November 4, 2011]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO RAP 18.13A-) NO. 25700-A-990
ACCELERATED REVIEW OF JUVENILE)
DEPENDENCY DISPOSITION ORDERS)
AND ORDERS TERMINATING PAREN-)
TAL RIGHTS AND RAP FORM 15D)

The Washington State Bar Association having recommended the adoption of the proposed amendments to RAP 18.13A-Accelerated Review of Juvenile Dependency Disposition Orders and Orders Terminating Parental Rights and RAP Form 15D, and the Court having approved the proposed amendments for an expedited publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites expeditiously.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than 60 days from the published date. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 4th day of November, 2011.

For the Court

Madsen, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

**Suggested Amendment
Rules of Appellate Procedure (RAP)**

RAP 18.13A - ACCELERATED REVIEW OF JUVENILE DEPENDENCY DISPOSITION ORDERS AND ORDERS TERMINATING PARENTAL RIGHTS

Submitted by the Board of Governors of the Washington State Bar Association in Response to Proposal from Office of Public Defense

PURPOSE: The WSBA suggests changes to the Rules of Appellate Procedure, RAP 18.13A, Accelerated Review of Juvenile Dependency Disposition Orders and Orders Terminating Parental Rights. These changes would require the Department of Social and Health Services (department) or other supervising agency having the right to consent to an

adoption to serve a notice of intent to deliver its consent to an adoption on all parties to any termination appeal, and to file a copy in the appellate court in which the appeal is pending. This proposal is an alternative to a proposal from OPD currently under consideration by the Supreme Court Rules Committee.

The primary purpose of these suggested changes is to protect (a) children's right to stability and permanency, and (b) the appellate courts' responsibility to provide effective review of a termination order while an adoption proceeding is pending. Currently, if an adoption is filed while a termination order is under review, the adoption may be finalized before the termination appeal is decided. If the appeal is reversed after the adoption is finalized, the reversal could require vacation of the adoption, disrupting the permanency established by the adoption. Alternatively, if the appellate court's reversal were held to be moot, then the trial court could uphold the adoption order, undermining the appellate court's termination reversal. Either way, the child's permanency is threatened.

BACKGROUND

Adoptions are comprised of a three-part process under the applicable RCWs:

- 1) The out-of-home placement or relinquishment phase;
- 2) the termination of parental rights phase; and
- 3) the granting of the adoption itself, making the child for all legal purposes the issue and heir of the adopting parent.

There is a difference between adoption orders entered under RCW 13.34 (dependency statute) on one hand, and RCW 26.33 (adoption statute) on the other. Particularly important here, RCW 26.33 contains a notice provision so that parents appealing the involuntary termination of parental rights would be aware of any hearing to finalize the adoption, but RCW 13.34 does not contain this provision. RCW 13.34 does contain a provision that allows parents whose rights have been terminated to seek a stay of a termination order, but the statute lacks a requirement of notice of an adoption proceeding to the appellant parent in a termination appeal.

Dependency Statute

In a dependency under RCW 13.34, a child is generally removed from a parent's custody on an involuntary basis. A process then begins that in most cases requires that services are offered to assist parents in remedying the conditions that caused the removal with a goal of trying to reunify the family.

At some point in time that varies depending on the circumstances, the focus changes from reunification to another permanent plan, and the process to terminate parental rights is initiated. This typically takes from one to two years after a child has entered state care. Unless a parent voluntarily agrees to termination and signs a consent, a fact-finding hearing is held and, if sufficient grounds are found, an order terminating parental rights is entered.

After the termination order is entered, the department or other supervising agency is granted permanent custody of the child and given the authority to place the child for adoption and to consent to an adoption. In a typical case, that is accomplished within a few months, and the prospective adoptive parents may hire private counsel to help process an adop-

tion. The department or other supervising agency retains custody of the child until the adoption is finalized.

Adoption Statute

Adoptions must be filed in Superior Court under RCW 26.33 and a petition for adoption is prepared and filed with all proper documentation, including documents that verify termination of parental rights has occurred in the Juvenile Court pursuant to RCW 13.34. The required reports also verify the adoptive family is a good placement resource for the child, and a hearing on that adoption petition can be set within a few weeks and a Final Decree of Adoption entered by the superior court. There can be a few delays in this process, but typically counsel for the adoptive parents can process the adoption and have the final hearing set and completed within a few weeks of getting documents from the department or private agency working with the department.

In a RCW 26.33 adoption where there was no dependency, if a parent has not agreed to termination of parental rights (e.g., a step-parent adoption where the mother is retaining her rights but wants her new husband or partner to adopt her child) a petition for termination of the non-consenting parent's parental rights is filed in superior court. Importantly, notice of the filing of a termination petition and of a hearing on that petition must be given to the parent. Also unlike a RCW 13.34 proceeding, no state services are offered or required under RCW 26.33. But RCW 26.33 does mandate that counsel be appointed for a parent who requests it and cannot afford counsel. The statutory grounds for termination of parental rights must be proven by clear, cogent and convincing evidence and the burden of proof is on the petitioning party.

There can be a number of varied circumstances and fact patterns in RCW 26.33 adoption cases. But once a case gets to the point of a fact finding or trial, it is basically similar to any other civil trial process.

COMMUNICATION PROBLEMS

There are roughly 1,000 terminations a year, out of which about 200 are appealed. In some cases, an appeal can last several years. The reversal rate remains very low. There is a question whether reversal of an order terminating parental rights automatically voids a final adoption. It is not entirely clear how the trial courts have handled these situations on remand, and there may be some inconsistency on the issue across the state.

Communication among all the players throughout these three phases is a big problem. The Attorney General's office has developed a letter with information notifying the case worker when an appeal has been filed. Use of this letter has perhaps been inconsistent in the past, but it is sent out consistently now. But the state or supervising agency does not always know when adoption proceedings have been initiated. Parents appealing termination orders are not entitled to receive notice of an adoption regardless of whether the termination order is on appeal. The prospective adoptive parent may not know that an appeal from a termination order has been filed.

If the department or other supervising agency does not give its consent, the adoption process cannot go forward. Thus, we believe that staying the consent to adoption in proper cases would prevent the harms that most people are

concerned about here: reversing a parental termination after the adoption has been completed, leaving everyone's rights in question, with the child's stability and permanency hanging in the balance.

To address these concerns, we propose an alternative version to OPD's pending proposal. See WSBA RAP 18.13A Proposal. We make these suggestions after studying the Court of Appeals' draft suggested changes to OPD's proposal, and in consultation with them. Our proposal focuses on the key step in the process, the custodian's consent to the adoption. It covers all types of adoptions, and all types of custodians. It ensures that the crucial actors will have notice of an appeal in all cases. It also leaves the appellate court with discretion to impose or lift a stay at any point it deems appropriate, in response to an appropriate motion.

SUGGESTED AMENDMENT RULES OF APPELLATE PROCEDURE (RAP)

RAP 18.13A — ACCELERATED REVIEW OF JUVENILE DEPENDENCY DISPOSITION ORDERS AND ORDERS TERMINATING PARENTAL RIGHTS

(a) Generally. Juvenile dependency disposition orders and orders terminating parental rights under RCW 13.34 may be reviewed by a commissioner on the merits by accelerated review as provided in this rule. Review from other orders entered in juvenile dependency and termination actions are not subject to this rule. The provisions of this rule supersede all other provisions of the Rules of Appellate Procedure to the contrary, and this rule shall be construed so that appeals from juvenile dependency disposition orders and orders terminating parental rights under RCW 13.34 shall be heard as expeditiously as possible.

[(b) - (j) unchanged]

(k) Termination Appeals-Notice of Intent to Deliver Consent to Adoption. When an order terminating parental rights is under review, the department of social and health services or supervising agency having the right to consent to an adoption should serve a written notice of its intent to deliver consent to adoption. The notice of intent should specify the intended delivery date, and should be served on all parties to the appeal and on anyone appointed to represent the interests of the child, no fewer than 30 days before the intended delivery date. A copy of the notice of intent and a proof of service should be filed in the appellate court.

After service of the notice of intent, any party may move the court in which the appeal is pending to stay the order terminating parental rights, but only to the extent it authorized consent to adoption. The department or supervising agency should not deliver its consent to adoption if any party seeks a stay before the intended delivery date, pending a ruling on the motion to stay. The appellate court will hear the motion to stay on an expedited basis. Any stay of enforcement shall terminate upon issuance of the mandate as provided in Rule 12.5, unless otherwise directed by the appellate court.

SUGGESTED AMENDMENT
RULES OF APPELLATE PROCEDURE (RAP)

RAP 18.13A — ACCELERATED REVIEW OF JUVENILE DEPENDENCY DISPOSITION ORDERS AND ORDERS TERMINATING PARENTAL RIGHTS

See Form 15D.

FORM 15D. NOTICE OF INTENT TO DELIVER CONSENT TO ADOPTION

NO. _____

(SUPREME COURT or COURT OF APPEALS, DIVISION) OF THE STATE OF WASHINGTON

IN RE DEPENDENCY OF: A.B.C., A Minor Child.

NOTICE OF INTENT TO DELIVER CONSENT TO ADOPTION

TO: (Names of persons entitled to notice and their attorneys. See RAP 18.13A(k)).

Respondent, (Department of Social and Health Services, name of supervising agency), hereby gives notice that it intends to deliver a consent to the adoption of the above named child to prospective adoptive parents on the _____ day of _____, 20__.

Dated this _____ day of _____, 20__.

Signature (Name of attorney) Washington State Bar Association membership number Attorney for Respondent

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 11-23-039 NOTICE OF PUBLIC MEETINGS CONSERVATION COMMISSION [Filed November 8, 2011, 10:40 a.m.]

2011 REVISED PUBLIC MEETINGS NOTICE

Per WAC 135-04-020, the Washington state conservation commission shall hold regular bimonthly meetings on the third Thursday of the month at various locations in the state of Washington. The regular business conservation commission meetings are held on the third Thursday of every other month with the exception of the November/December meeting.

Please note that the dates are set and the times listed below are estimated and may vary. Every effort will be made, however, to adhere to the proposed timelines. Please check our web site for any changes or additions that may affect this schedule: www.scc.wa.gov.

If you are a person with a disability and need special accommodations, please contact the conservation commission at (360) 407-6200.

Table with 3 columns: Meeting Date, Meeting Time, and Location. Rows include meetings from January 19, 2011 to September 15, 2011, with various locations like Olympic National Forest and Walla Walla Community College.

December 1, 2011	4:00 9:30 - 3:00	Location
Regular Meeting	p.m.	Suncadia Resort
	WSSC Business	3600 Suncadia Trail
	Meeting	Cle Elum, WA 98922

Date	Time	Location
November 9, 2012	9:00 a.m.	Conference call

If you need further information, please contact Vicki Brown, Program Manager, Board of Denturists, Washington Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4865, fax (360) 236-2901, vicki.brown@doh.wa.gov, www.doh.wa.gov.

Please be advised the board of denturists is required to comply with the Public Disclosure Act, chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. As such, the information you submit to the board, including personal information, may ultimately be subject to disclosure as a public record.

WSR 11-23-040
NOTICE OF PUBLIC MEETINGS
BELLEVUE COLLEGE
 [Filed November 8, 2011, 11:53 a.m.]

The 2012 meetings of the board of trustees of Community College District VIII will be held at 12:30 p.m. in the Board Room (B201), Bellevue College, 3000 Landerholm Circle S.E., Bellevue, WA, on the following dates:

- Wednesday, January 18
- Wednesday, March 7
- Wednesday, May 16
- Wednesday, June 13
- Wednesday, June 27
(tentative, pending budget process needs)
- Wednesday, September 5
- Wednesday, October 10
(tentatively scheduled as an all-day retreat, time and location may vary)
- Wednesday, November 14

WSR 11-23-042
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Board of Denturists)
 [Filed November 8, 2011, 3:11 p.m.]

In accordance with the Open Public Meeting[s] Act (chapter 42.30 RCW) and the Administrative Procedure Act (chapter 34.05 RCW), the following is the schedule of regular meetings for the department of health, board of denturists, for the year 2012. The board of denturists meetings are open to the public and access for persons with disabilities may be arranged with advance notice; please contact the staff person below for more information.

Agendas for the meetings listed below are made available in advance via listserv and the department of health web site (see below). Every attempt is made to ensure that the agenda is up-to-date. However, the board of denturists reserves the right to change or amend agendas at the meeting.

Date	Time	Location
January 27, 2012	9:00 a.m.	Conference call
March 22, 2012	1:00 p.m.	Tumwater
May 18, 2012	9:00 a.m.	Conference call
August 3, 2012	9:00 a.m.	Conference call
September 20, 2012	1:00 p.m.	Tumwater

WSR 11-23-044
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Filed November 9, 2011, 9:39 a.m.]

The Eastern Washington University board of trustees' meeting schedule for 2012 (adopted at the October 8, 2010, meeting of the board) is as follows:

- Friday, January 27, approximately 2:00 p.m., Tawanka 215 B and C.
 - Friday, March 23, approximately 2:00 p.m., Tawanka 215 B and C.
 - Thursday, May 17, approximately 2:00 p.m., Tawanka 215 B and C.
 - Board of trustees annual planning session, June 21 and 22.
 - Friday, June 22, approximately 3:00 p.m., Tawanka 215 B and C.
 - Board of trustees work session, Thursday, August 23.
 - Friday, September 28, approximately 2:00 p.m., Tawanka 215 B and C.
 - Friday, November 16, approximately 3:00 p.m., Tawanka 215 B and C.
- Committee meetings will be held the afternoon prior to and the morning of the board meetings. Committees will not meet in June.
- Executive session will be held from approximately 11:30 a.m. - 12:30 p.m. on the day of the board meetings.
- If you have questions concerning this schedule, please contact Catherine Goff at (509) 359-6362.

WSR 11-23-047
NOTICE OF PUBLIC MEETINGS
PARKS AND RECREATION
COMMISSION
 [Filed November 9, 2011, 10:29 a.m.]

As required by RCW 42.30.075, Open Public Meetings Act, the following schedule is submitted for publishing in the Washington State Register.

The Washington state parks and recreation commission's **winter recreation (sno-park) advisory committee** has

adopted the following dates for their regular winter meeting for 2012:

January 20 and 21 Okanogan County
Virginia Grainger Building
123 Fifth Avenue North
Room 150
Omak, WA 98840
(509) 422-7100

The Washington state parks and recreation commission's **snowmobile advisory committee** has adopted the following dates for their regular Winter meeting for 2012:

February 3 and 4 Okanogan County
Virginia Grainger Building
123 Fifth Avenue North
Room 150
Omak, WA 98840
(509) 422-7100

All snowmobile advisory committee and winter recreation advisory committee meetings will begin at 8 a.m. The meeting locations of the snowmobile and the winter recreation advisory committees may be obtained by writing to Pam McConkey, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650, e-mail pam.mcconkey@parks.wa.gov, or by calling (360) 902-8595.

The public is welcome to attend all state park[s] and recreation commission advisory committee meetings. Meeting sites will be barrier free to the greatest extent feasible. The commission will provide Braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments, if a request is received at the appropriate address shown above at least ten working days in advance of the scheduled meeting date.

WSR 11-23-051

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed November 9, 2011, 3:40 p.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

**Economic Services Administration
Division of Child Support**

Document Title: Policy Clarification Memo 11-008: 2012 Change to the Washington Minimum Wage.

Subject: 2012 Change to the Washington minimum wage.

Effective Date: November 7, 2011.

Document Description: This policy clarification memo explains that the Washington minimum wage will increase to \$9.04 per hour on January 1, 2012.

To receive a copy of the interpretive or policy statements, contact Jeff Kildahl, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD/TTY (360) 753-9122, fax (360) 586-3274, e-mail Kildaja@dshs.wa.gov, web site <http://www.dshs.wa.gov/dcs/>.

WSR 11-23-053

**PUBLIC RECORDS OFFICER
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed November 10, 2011, 11:03 a.m.]

Per RCW 42.56.580, Angela Wharton is the designated public records officer for the department of labor and industries effective October 16, 2011.

The contact information is e-mail Angela.Wharton@Lni.wa.gov, mailstop 44632, phone (360) 902-5542, fax (360) 902-5529.

Chris Freed
Assistant Director
of Administrative Services

WSR 11-23-055

**RULES COORDINATOR
COMMUNITY COLLEGES
OF SPOKANE**

[Filed November 10, 2011, 1:12 p.m.]

In accordance with RCW 34.05.312, Community Colleges of Spokane designates Kathleen Roberson as the agency's rules coordinator. Following is Ms. Roberson's contact information: Kathleen Roberson, Executive Assistant to the CFO, Community Colleges of Spokane, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, e-mail kroberson@ccs.spokane.edu, phone (509) 434-5275, fax (509) 434-5279.

Christine Johnson, Ph.D.
Chancellor

WSR 11-23-056

**INTERPRETIVE AND POLICY STATEMENT
WASHINGTON STATE UNIVERSITY**

[Filed November 10, 2011, 1:38 p.m.]

Interpretive Guideline

Washington State University has created the following interpretive guideline: "RSO Fundraising Guidelines for Scholarships," effective November 8, 2011. This guideline was developed to respond to inquiries by several registered student organizations at WSU Tri-Cities desiring to raise

monies for student scholarships. This document was developed to clarify institutional policy in WAC 504-28-050 (2)(e).

The guideline is available on-line in two formats (HTML and PDF) from the WSU Tri-Cities student involvement web site:

<http://www.tricity.wsu.edu/studentinvolvement/clubs>
<http://www.tricity.wsu.edu/studentinvolvement/downloads/rsofundraising.pdf>

To request a paper copy of the guideline, contact Allison Rodgers, Student Involvement Supervisor, Washington State University Tri-Cities, 2710 Crimson Way, West 269 G, Richland, WA 99354-1671, phone (509) 372-7300, e-mail allison.rodgers@tricity.wsu.edu.

November 10, 2011
 Ralph T. Jenks, Director
 Procedures, Records and Forms
 University Rules Coordinator

WSR 11-23-057
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
 [Filed November 10, 2011, 2:52 p.m.]

The Washington State University board of regents will hold its next official meetings on Thursday and Friday, November 17-18, 2011, in Spokane, Washington, pursuant to the schedule below.

All meetings will take place at the WSU Spokane, Nursing Building, as outlined in the schedule below, unless noted otherwise.

The meetings will begin at 11:30 a.m. on Thursday. Unless otherwise indicated, committee meetings also are board of regents meetings and will run consecutively throughout the afternoon; starting times following the first committee meeting are estimates only. If a session ends earlier than expected, the next scheduled session may convene immediately. Committee meetings may be attended by all members of the board of regents and all members may participate.

Thursday, November 17, 2011	Location
11:30 a.m. Board of Regents Lunch	Nursing Building Room 119
12:30 p.m.* Executive Session	Nursing Building Room 205
1:30 p.m.* Executive Committee	Nursing Building Room 205
2:00 p.m.* Finance and Audit Committee	Nursing Building Room 205
3:30 p.m.* Academic and Student Affairs Committee	Nursing Building Room 205
4:30 p.m.* External Affairs Committee	Nursing Building Room 205

Thursday, November 17, 2011	Location
6:00 p.m. Board of Regents Dinner	Davenport Hotel Worthy Room

*or upon conclusion of previous session.

Friday, November 18, 2011	Location
8:00 a.m. Board of Regents Breakfast	Nursing Building Room 119
9:00 a.m. Board of Regents Meeting	Nursing Building Room 205

Questions about the board of regents meeting and schedule may be directed to Christine R. Hoyt, executive assistant to the board of regents, (509) 335-4200.

WSR 11-23-060
NOTICE OF PUBLIC MEETINGS
BIG BEND
COMMUNITY COLLEGE
 [Filed November 14, 2011, 9:54 a.m.]

This notice is in accordance with RCW 42.30.075 that the board of trustees for Big Bend Community College, District No. 18, meet Wednesdays at 1:30 p.m., as per the schedule below, in the Grant County ATEC Building 1800, Room 1837, Hardin Community Room, on the campus of Big Bend Community College.

- January 11, 2012
- February 22, 2012
- April 4, 2012
- May 16, 2012
- June 27, 2012
- August 8, 2012
- September 19, 2012
- October 31, 2012
- December 12, 2012

WSR 11-23-061
NOTICE OF PUBLIC MEETINGS
LOTTERY COMMISSION
 [Filed November 14, 2011, 12:27 p.m.]

MEETING
 Thursday, November 17, 2011
 Lottery Headquarters
 Olympia, Washington
 8:30 a.m.

WSR 11-23-065

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES**

(Industrial Insurance Medical Advisory Committee)

[Filed November 14, 2011, 2:04 p.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, this memo gives notice that the industrial insurance medical advisory committee is scheduled to meet as follows:

DATES	TIME	LOCATION
January 26, 2012	1:00 - 5:00 p.m.	SeaTac Airport; Port of Seattle London Conference Room 17801 International Boulevard Seattle, WA 98158
April 26, 2012 July 26, 2012 October 25, 2012	1:00 - 5:00 p.m.	SeaTac Airport; Port of Seattle Beijing Conference Room 6012M International Boulevard Seattle, WA 98158

Please call Simone Javaher at (360) 902-5762 if you have any questions about these meetings.

The meeting agenda will be posted at least twenty calendar days prior to the meeting at <http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/PAC/default.asp#2>.

WSR 11-23-076

**NOTICE OF PUBLIC MEETINGS
BEEF COMMISSION**

[Filed November 15, 2011, 3:05 p.m.]

2012 Scheduled Meeting Dates

January 19, 2012 (Thursday)	Regular Meeting	Conference Call
March 14-15, 2012 (Wednesday/Thursday)	Strategic Planning Meeting	TBD
April 26, 2012 (Thursday)	Regular Meeting	Ellensburg
June 7, 2012 (Thursday)	Annual Meeting	Ellensburg
August 30, 2012 (Thursday)	Regular Meeting	Ellensburg
November 8, 2012 (Thursday)	Regular Meeting	TBD

(in conjunction with Washington Cattlemen's Association Convention)

Should you have questions, please contact Daniene Giesen at (206) 444-2902.

WSR 11-23-078

**NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGES
OF SPOKANE**

[Filed November 16, 2011, 10:38 a.m.]

Following is the schedule of regular meetings for the Washington Community College District 17 (Community Colleges of Spokane) board of trustees for 2012:

Date	Time	Location
January 17, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
February 21, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
March 20, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
April 17, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
May 15, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
June 19, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
July 17, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
August 21, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
September 18, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
October 16, 2012	8:30 a.m.	IEL Newport Center 1204 West Fifth Newport, WA
November 20, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA
December 18, 2012	8:30 a.m.	IEL Lodge 3305 West Fort George Wright Drive Spokane, WA

If you need further information contact Linda Graham at 501 North Riverpoint Boulevard, Mailstop 1001, Spokane, WA 99217-6000, phone (509) 434-5006, fax (509) 434-5025, e-mail Linda.Graham@ccs.spokane.edu.

WSR 11-23-079

**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON**

[Filed November 16, 2011, 11:09 a.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-01 issue of the Register.

WSR 11-23-080

**NOTICE OF PUBLIC MEETINGS
RECREATION AND CONSERVATION
OFFICE**

(Salmon Recovery Funding Board)

[Filed November 16, 2011, 12:52 p.m.]

The salmon recovery funding board is changing the dates of the following regular meeting:

From: December 7 and 8, 2011
To: December 8, 2011

The meeting will begin at 9:00 a.m. It will be held [in] Room 172 of the Natural Resources Building in Olympia.

For further information about the meeting, please contact Rebecca Connolly, rebecca.connolly@rco.wa.gov, (360) 902-2637. Meeting information and materials will be available on-line soon at http://www.rco.wa.gov/boards/srfb_meetings.shtml.

WSR 11-23-090

**NOTICE OF PUBLIC MEETINGS
GRAIN COMMISSION**

[Filed November 17, 2011, 11:37 a.m.]

The Washington grain commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting information of the board of directors for publication in the State Register for the period January through December 2012. All meetings will take place in the commission conference room at 2702 West Sunset Boulevard, Suite A, Spokane, WA. The meetings will begin at 10:00 a.m. on the first day and will reconvene at 8:00 a.m. on the second day.

Regular January 11 and 12
Regular March 14 and 15
Annual May 16 and 17
Regular September 19 and 20
Regular November 15 and 16

We understand that should any changes to this meeting schedule become necessary, we will provide the information at least twenty days prior to the rescheduled meeting date for publication in the State Register. If further details are required, please do not hesitate to contact our office.

WSR 11-23-091

HEALTH CARE AUTHORITY

[Filed November 17, 2011, 12:31 p.m.]

I am requesting that the code reviser recodify the following sections of the Washington Administrative Code (WAC) from Title 388 WAC to Title 182 WAC effective November 21, 2011:

Old WAC Number	New WAC Number
388-450-0210	182-509-0001
388-478-0065	182-505-0245
388-478-0070	182-519-0050
388-478-0075	182-505-0100
388-478-0080	182-512-0010
388-478-0085	182-517-0100

November 14, 2011

Doug Porter
Director

WSR 11-23-093

**DEPARTMENT OF
ENTERPRISE SERVICES**

[Filed November 17, 2011, 2:30 p.m.]

During the 2011 legislative special session, the legislature passed, and the governor signed, ESSB 5931, consolidating and creating central service agencies. As part of that legislation, the department of enterprise services (DES) was created. This new agency consists of the department of general administration (GA), the state printer, and parts of the department of information services (DIS), department of personnel (DOP) and office of financial management (OFM). As part of the legislation, the rules for the affected agencies are transferred to DES, along with future rule-making authority.

Currently, GA enacted rules are in Title 236 WAC. Except for the public records chapter (chapter 236-56 WAC), all GA rules will be transferred to DES. DES will begin the rule-making process to repeal chapter 236-56 WAC and enact a new public disclosure chapter in Title 200 WAC for the new agency. In addition, five DOP enacted rules in Title 357 WAC and three OFM enacted chapters in Title 82 WAC will be transferred to DES.

Based on the above-referenced legislation, I request the code reviser's office decodify the GA, DOP and OFM rules listed below and recodify these rules as DES rules under the chapter/sections listed in Title 200 WAC, as shown below.

If you need additional information, please contact Jack Zeigler at (360) 902-0970, jack.zeigler@ga.wa.gov or Rose-lynn Marcus at (360) 902-0568, roselynn.marcus@ofm.wa.gov.

			Day	Date	Location
236-48-197	200-360-055	Withdrawal from sale or rejection of bids—Surplus property.	Thursday	January 12	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
236-48-198	200-360-060	Sale of surplus property to state elected officials or employees.	Thursday	February 9	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
CREDIT, CHARGE, OR PURCHASING CARDS					
WAC Sections					
<i>Decodify</i>	<i>Recodify as DES</i>				
236-48-250	200-370-010	Use of credit, charge cards or purchasing cards.	Thursday	March 8	UW Tacoma
236-48-251	200-370-015	Distribution of credit, charge cards or purchasing cards.	Thursday	April 5*	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
236-48-252	200-370-020	Credit limits.	Thursday	May 3	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
236-48-253	200-370-025	Payment of credit or purchasing card bills.	Thursday	June 7	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
Energy Efficiency Services Account Chapters					
<i>Decodify</i>	<i>Recodify as DES</i>				
236-200	200-400	Energy efficiency services account.	Thursday	July 12	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
Motor Vehicle Fleets Chapters					
<i>Decodify</i>	<i>Recodify as DES</i>				
236-20	200-500	State vehicle marking requirements and exceptions.	Thursday	August 9*	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
Employee Training and Development WAC Sections					
<i>Decodify</i>	<i>Recodify as DES</i>				
357-34-010	200-600-010	Who is responsible for employee training and development?	Thursday	September 13	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
357-34-015	200-600-015	What are the employer's training and development responsibilities?	Thursday	October 11	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
357-34-020	200-600-020	Can employers require employees to attend training?	Thursday	November 8	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
357-34-030	200-600-025	What are the requirements for the employer's training and development plans?	Thursday	December 6*	UW - Gerberding Hall 142 1 p.m. session Petersen Room Allen Library
357-34-125	200-600-030	How do agencies report their compliance with WAC 357-34-100 to the department?	Thursday		
		Joyce Turner Director			

WSR 11-23-099

**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON**

[Filed November 18, 2011, 8:37 a.m.]

In accordance with RCW 42.30.075, 28B.20.105, 28B.20.130, and WAC 478-04-030, the board of regents of the University of Washington established the following meeting schedule for 2012 at its meeting held November 17, 2011.

The board's meetings listed below begin at 8:30 a.m. with the first of a series of regent committee sessions, which are part of the board's meetings and are attended by some or all of the members of the board. A concluding session, attended by the full board, begins at 1:00 p.m.

***The April 5, August 9, and December 6 meetings may be canceled, circumstances permitting.**

Except as otherwise indicated, the meetings listed above are held at the University of Washington Seattle Campus, Seattle, Washington, at the locations noted above, unless a different location is established and public notice given in accordance with chapter 42.30 RCW. Any delay in the start time of a meeting will be announced both on the board's web page (<http://www.washington.edu/regents/>) by noon on the

Friday before the meeting date, and at 8:00 a.m. on the meeting date, at the meeting location.

The regents will meet for dinner at the residence of the university president in Seattle, at 5:30 p.m. on the following dates:

Day	Date
Wednesday	January 11
Wednesday	February 8
Wednesday	March 7
Wednesday	April 4†
Wednesday	May 2
Wednesday	June 6
Wednesday	July 11
Wednesday	August 8†
Wednesday	September 12
Wednesday	October 10
Wednesday	November 7
Wednesday	December 5†

†The April 4, August 8, and December 5 meetings may be canceled, circumstances permitting.

To request disability accommodation, contact the disability services office at (206) 543-6450 (voice), (206) 543-6452 (TTY), (206) 685-7264 (fax), or e-mail at dso@uw.edu. The University of Washington makes every effort to honor disability accommodation requests. Requests can be responded to most effectively if received as far in advance of the event as possible, preferably at least ten days.

WSR 11-23-107
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Natural Heritage Advisory Council)
 [Filed November 18, 2011, 3:33 p.m.]

The natural heritage advisory council will meet on the following dates:

January 25, 2012	9:30 a.m. to 3:00 p.m. Natural Resources Building 1111 Washington Street S.E. Room 461
April 4, 2012	9:30 a.m. to 3:00 p.m. Natural Resources Building 1111 Washington Street S.E. Room 172
June 19 - 20, 2012	9:30 a.m. to 3:00 p.m. Natural Resources Building 1111 Washington Street S.E. Room 172 Field trip - to be determined

October 17, 2012	9:30 a.m. to 3:00 p.m. Natural Resources Building 1111 Washington Street S.E. Room 461
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Regular council business generally includes consideration of proposals for new natural areas, additions to existing natural areas, and management activities within existing natural areas.

For further information contact the Department of Natural Resources, Natural Heritage Program, 1111 Washington Street S.E., Olympia, WA 98504-7014, (360) 902-1916.

WSR 11-23-114
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
 (Natural Resource Damage Assessment Committee)
 [Filed November 21, 2011, 9:57 a.m.]

January - December 2012 Meeting Schedule

The Washington state natural resource damage assessment (NRDA) committee, which is chaired by the department of ecology, includes representatives of the state departments of fish and wildlife, natural resources, health, archaeology and historic preservation, and the parks and recreation commission. The committee makes decisions regarding the most appropriate damage assessment to pursue for oil spills in state waters, and evaluates restoration projects proposed by responsible parties in lieu of monetary claims.

Meetings for January through December 2012 will be held on the second Wednesday of each month. All meetings will be held in Room ROA-09.

Meetings start at 9:00 a.m. at the Department of Ecology, Headquarters Building, 300 Desmond Drive S.E., Lacey, WA.

For more information, contact Dale Davis at (360) 407-6972, dale.davis@ecy.wa.gov.

WSR 11-23-127
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
 [Filed November 21, 2011, 1:25 p.m.]

BOARD OF REGENTS SPECIAL MEETING NOTICE
 University of Washington and Washington State University

The Washington State University board of regents will hold a special meeting with the University of Washington board of regents on Saturday, November 26, 2011, from 12:45 - 2:45 p.m. The meeting will be held in the Century Link Field Event Center, Conference Room, Seattle, Washington.

This notice is being sent by the direction of the chair of the board of regents pursuant to the requirements of the Open [Public] Meeting[s] Act of 1971 (chapter 250, Laws of 1971 1st ex. sess.), as amended.

Questions about the board of regents meeting and schedule may be directed to Christine R. Hoyt, executive assistant to the board of regents, (509) 335-4200.

WSR 11-23-143
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Apprenticeship and Training Council)
 [Filed November 22, 2011, 9:08 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the Washington state apprenticeship and training council meetings for 2012 have been scheduled for:

DATE	TIME	LOCATION
January 19, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98501
April 19, 2012	9:00 a.m.	To be determined.
July 19, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98501
October 18-19, 2012	9:00 a.m.	To be determined.

If you have questions, please call (360) 902-6411.

WSR 11-23-144
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Board of Boiler Rules)
 [Filed November 22, 2011, 9:08 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the board of boiler rules board meetings for 2012 have been scheduled for:

DATE	TIME	LOCATION
February 14-15, 2012	10:00 a.m.	Labor and Industries 950 Broadway Suite 200 Tacoma, WA 98402
May 22-23, 2012	10:00 a.m.	Labor and Industries 950 Broadway Suite 200 Tacoma, WA 98402
September 11-12, 2012	10:00 a.m.	Labor and Industries 950 Broadway Suite 200 Tacoma, WA 98402
November 13-14, 2012	10:00 a.m.	Labor and Industries 950 Broadway Suite 200 Tacoma, WA 98402

If you have questions, please call (360) 902-6411.

WSR 11-23-145
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Electrical Board)
 [Filed November 22, 2011, 9:09 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the electrical board meetings for 2012 have been scheduled for:

DATE	TIME	LOCATION
January 26, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Auditorium Tumwater, WA 98501
April 26, 2012	9:00 a.m.	To be determined.
July 26, 2012	9:00 a.m.	To be determined.
October 25, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Auditorium Tumwater, WA 98501

If you have questions, please call (360) 902-6411.

WSR 11-23-146
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Elevator Advisory Committee)
 [Filed November 22, 2011, 9:09 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the elevator advisory committee meetings for 2012 have been scheduled for:

DATE	TIME	LOCATION
February 21, 2012	9:00 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168
May 15, 2012	9:00 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168
August 21, 2012	9:00 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168
November 20, 2012	9:00 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168

If you have questions, please call (360) 902-6411.

WSR 11-23-147
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Factory Assembled Structures Advisory Board)
 [Filed November 22, 2011, 9:09 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the time and place of regular meetings for the factory assembled structures advisory board for 2012 have been scheduled.

The meetings are scheduled to begin at 1:00 p.m. at the Labor and Industries Headquarters Building, 7273 Linderson Way S.W., Tumwater, WA 98501.

The dates are as follows:

- February 16, 2012
- May 17, 2012
- August 16, 2012
- November 15, 2012

If you have questions, please call (360) 902-6411.

WSR 11-23-148
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Advisory Board of Plumbers)
 [Filed November 22, 2011, 9:09 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the quarterly meetings for the advisory board of plumbers have been scheduled for 2012. The meetings are to begin at 9:30 a.m. on the third Tuesday of January, April, July, and October at the Department of Labor and Industries, 12806 Gateway Drive South, Tukwila, WA 98168.

The dates are as follows:

- January 17, 2012
- April 17, 2012
- July 17, 2012
- October 16, 2012

If you have questions, please call (360) 902-6411.

WSR 11-23-149
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Prevailing Wage Advisory Committee)
 [Filed November 22, 2011, 9:09 a.m.]

Pursuant to chapter 42.30 RCW, the Open Public Meetings Act, the prevailing wage advisory committee will hold meetings on:

DATE	TIME	LOCATION
March 28, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98501
June 28, 2012	9:30 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168
September 20, 2012	9:00 a.m.	Department of Labor and Industries 7273 Linderson Way S.W. Tumwater, WA 98501
December 13, 2012	9:30 a.m.	Department of Labor and Industries 12806 Gateway Drive South Tukwila, WA 98168

If you have questions, please call (360) 902-6411.

WSR 11-23-156
NOTICE OF PUBLIC MEETINGS
INDETERMINATE SENTENCE
REVIEW BOARD
 [Filed November 22, 2011, 9:58 a.m.]

The indeterminate sentence review board (ISRB) will meet twice each month in 2012 with the exception of February, May, November and December. Our board meetings are open public meetings and are held at 4317 6th Avenue S.E., Lacey, WA. This building complies with the Americans with Disabilities Act. The board's upcoming meetings are scheduled as follows:

January 9	(Monday)	10:00 a.m.
January 23	(Monday)	10:00 a.m.
February 13	(Monday)	10:00 a.m.
March 12	(Monday)	10:00 a.m.
March 26	(Monday)	10:00 a.m.
April 9	(Monday)	10:00 a.m.
April 26	(Monday)	10:00 a.m.
May 14	(Monday)	10:00 a.m.
June 11	(Monday)	10:00 a.m.
June 25	(Monday)	10:00 a.m.
July 9	(Monday)	10:00 a.m.
July 23	(Monday)	10:00 a.m.
August 13	(Monday)	10:00 a.m.
August 27	(Monday)	10:00 a.m.
September 10	(Monday)	10:00 a.m.
September 24	(Monday)	10:00 a.m.
October 8	(Monday)	10:00 a.m.
October 22	(Monday)	10:00 a.m.
November 19	(Monday)	10:00 a.m.
December 10	(Monday)	10:00 a.m.

Persons interested in attending the ISRB meeting can call our office at (360) 493-9266 for directions and meeting agendas. Directions can also be found at www.doc.wa.gov (ISRB link).

WSR 11-23-157
NOTICE OF PUBLIC MEETINGS
PENINSULA COLLEGE
 [Filed November 22, 2011, 9:59 a.m.]

The Peninsula College board of trustees approved the following changes to their 2011-2012 annual calendar of meetings:

- Rescheduled the December 2011 meeting from the 13th to the 6th.
- Scheduled an executive session on December 6, 2011.
- Scheduled an executive session on November 30, 2011.
- Scheduled a meeting for January 10, 2012, on the Port Angeles main campus.
- Rescheduled the February 2012 meeting from the 14th to the 17th.

WSR 11-23-158
NOTICE OF PUBLIC MEETINGS
LOWER COLUMBIA COLLEGE
 [Filed November 22, 2011, 10:00 a.m.]

On November 16, 2011, the Lower Columbia College board of trustees adopted the following meeting schedule for 2012. All regularly scheduled meetings are held on the third Wednesday of each month at 5:00 p.m. in the Heritage Room of the Administration Building, unless noted otherwise.

The trustees meet on the 3rd Wednesday of the month at 5:00 in the Heritage Room of the Administration Building unless noted differently below.

2012 MEETING SCHEDULE

January 18, 2012	5:00 p.m.	Regular Meeting
February 15, 2012	8:30 a.m.	Regular Workshop
March 14, 2012	5:00 p.m.	Special Executive Session Administration Building Training Room
March 21, 2012	5:00 p.m.	Regular Meeting
April 18, 2012	5:00 p.m.	Regular Meeting
May 16, 2012	5:30 p.m.	Regular Meeting
June 20, 2012	5:00 p.m.	Regular Meeting
July 18, 2012	8:30 a.m.	Workshop - On Campus TBD
August 2012	NO MEETING	
September 19, 2012	5:00 p.m.	Regular Meeting
October 17, 2012	5:00 p.m.	Regular Meeting
November 21, 2012	5:00 p.m.	Regular Meeting
December 19, 2012	5:00 p.m.	Regular Meeting

WSR 11-23-168
NOTICE OF PUBLIC MEETINGS
ARTS COMMISSION
 [Filed November 22, 2011, 4:14 p.m.]

2012 BOARD MEETING SCHEDULE

Please check the arts commission web site at www.arts.wa.gov for any future changes to date and times listed below.

Tuesday, January 31, 2012

Convenes: 12:30 p.m.
 Adjourns: 5 p.m.
 Location: Coach House
 211- 21st Avenue S.W.
 Olympia, WA 98501

Tuesday, March 13, 2012

Convenes: 9 a.m.
 Adjourns: 12 p.m.
 Location: Olympia or Tacoma, Washington - exact meeting time and location to be determined - check arts commission web site

Tuesday, May 8, 2012

Convenes: 9 a.m.
 Adjourns: 4 p.m.
 Location: Everett, Washington - exact location to be determined - check arts commission web site

Tuesday, August 7, 2012

Convenes: 9 a.m.
 Adjourns: 4 p.m.
 Location: The Wing Luke Museum
 719 South King Street
 Seattle, WA 98104

Thursday, November 8, 2012

Convenes: 9 a.m.
 Adjourns: 12 p.m.
 Location: In person or by toll-free Webinar - check arts commission web site

WSR 11-23-173
NOTICE OF PUBLIC MEETINGS
LAKE WASHINGTON
INSTITUTE OF TECHNOLOGY
 [Filed November 23, 2011, 8:27 a.m.]

Pursuant to RCW 42.30.075, we are hereby notifying you of the following changes in the board meeting dates for the Lake Washington Institute of Technology board of trustees.

(1) A special board of trustees meeting has been scheduled for November 29, 2011.

Special Board of Trustees Meeting
 Tuesday, November 29, 2011
 5:00 p.m. to 6:00 p.m.

Lake Washington Institution of Technology
 Kirkland Campus
 11605 132nd Avenue N.E.
 Kirkland, WA 98034

(2) The board of trustees meeting originally scheduled for January 2, 2012 (a school holiday), has been rescheduled for January 9, 2012.

WSR 11-23-175

NOTICE OF PUBLIC MEETINGS

**LAW ENFORCEMENT OFFICERS' AND
 FIREFIGHTERS' PLAN 2 RETIREMENT BOARD**

[Filed November 23, 2011, 9:54 a.m.]

The law enforcement officers' and firefighters' (LEOFF) plan 2 retirement board has scheduled their meetings for 2012.

Please feel free to contact Jessica Burkhart at (360) 586-2322 or by e-mail at jessica.burkhart@leoff.wa.gov should you have any questions.

Wednesday	January 25, 2012
Wednesday	February 22, 2012
Wednesday	March 28, 2012
Wednesday	April 25, 2012
Wednesday	May 23, 2012
Wednesday	June 13, 2012
Wednesday	July 25, 2012
Wednesday	August 22, 2012
Wednesday	September 26, 2012
Wednesday	October 24, 2012
Wednesday	November 28, 2012
Wednesday	December 12, 2012

All meetings of the law enforcement officers' and firefighters' plan 2 retirement board take place in the Washington State Investment Boardroom located at 2100 Evergreen Park Drive S.W., Suite 140, Olympia, WA 98502.